

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALBERT H. BEAVER, ESQ.,

Plaintiff,

v.

JENNIFER A. MOELLER, REGISTER
IN PROBATE, CIRCUIT COURT OF
DOOR COUNTY, WISCONSIN,

Defendant.

ORDER

11-cv-476-wmc

In a September 7, 2012 order, the court granted defendant Jennifer Moeller's motion to remand nominal plaintiff Albert Beaver's ill-conceived attempt to remove a state guardianship proceeding, Door County Circuit Court Case No. 1997-GN-1P, which concerned the protective placement of Beaver's adult daughter.¹ This court also directed Moeller to submit documentation of her reasonable costs and attorney fees in seeking remand, which she has now done in the form of an affidavit detailing these fees. In addition, Beaver filed a motion to alter or amend the judgment under Fed. R. Civ. P. 59.

Beaver's motion can be summarily denied. The removal statute, however, provides: "An order remanding a case to the State Court from which it was removed is not reviewable on appeal *or otherwise*." 28 U.S.C. § 1447(d) (emphasis added). This includes motions for reconsideration. *New Orleans Pub. Serv. v. Majoue*, 802 F.2d 166, 167 (5th Cir. 1986) (collecting cases); *Rice v. Mayflower Transit*, 1995 WL 347957, *1 (N.D. Ill. June 8, 1995). In any case, nothing in Beaver's most recent submission counters the

¹ Beaver was not an actual party to the underlying state guardianship case, but purported to be in his attempt to remove that proceeding to federal court.

court's reasons for finding his original attempt at removal to be wholly frivolous.

Turning to the fees issue, Moeller has submitted an itemized list of services provided by "billing attorney" Charles Bohl at \$220 an hour and associate Patrick Harvey at \$130 an hour. These rates are not excessive, but the total amount of fees, \$3,483.00, is high. As the court stated in its September 7, 2013 order, "Beaver's notice of removal so clearly lacked merit, it should not have been very costly to research or oppose it." Dkt. 27 at 5. The total hours billed, about 26, is excessive to fashion a response to such a frivolous attempt at removal. Given the hourly rates billed by the attorneys, the court finds that a more reasonable figure is two-thirds of the billed amount or \$2,321.77. When added to the documented costs of \$38.22, the final award is \$2,359.99.

ORDER

IT IS ORDERED THAT:

1. Plaintiff Albert Beaver's motion to alter or amend judgment in this case (dkt. #29) is DENIED.
2. Defendant Jennifer Moeller is awarded \$2,359.99 in attorney fees and costs under 28 U.S.C. § 1447(c). The clerk of the court is directed to enter judgment accordingly.

Entered this 22nd day of July, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge